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MEMORIAL

TO THE

MASSACHUSETTS LEGISLATURE.

BY HON. JOHN BATCHELDER,

President of the New England Female Medical College.

PRESENTED AND RECEIVED MAY 17, 1866.

BEING A REPLY TO THE REPORT OF THE JUDICIARY COMMITTEE
OF THE HOUSE OF REPRESENTATIVES, RESPECTING
THE ABOVE-NAMED COLLEGE.

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MEMORIAL.

The undersigned feels it his duty to make some reply to the report of the Committee on the Judiciary, under date of May 15, relating to the case of the New England Female Medical College.

The Committee on Education had several hearings upon the subject, and reported three points for the consideration of the Judiciary Committee. Certain papers presented by the Trustees to the Committee on Education were passed over to the Judiciary Committee, but the Trustees, supposing the Committee were simply to pass upon the three points raised, did not ask a formal hearing. The Secretary went before them and made brief statements, in part to correct an error in the report of the Committee on Education, which will be noticed in another paragraph. Had the Trustees supposed that such an extraordinary personal attack was to be made upon their Secretary, they certainly would have appeared, and informed the Committee that he had ever acted in accordance with instructions, and had the approval of the Board, and was held by them in high estimation.

The Scholarship grant of 1854, of \$1,000 a year for five years, was to pay the tuition fees of forty students annually during this time, the tuition being fixed at \$25 per term for each,—\$5 less than other students were paying.

The money was received by the college and paid to the professors for instruction. The State scholars did not all come, but the expense of providing for the instruction of those who did come was the same as if all had attended. All who came

properly recommended were received. It was not a condition that the college should furnish the students, but only that it should furnish instruction, which it did.

The resolve was imperative, to pay \$1,000 a year for five years. Had the money not been drawn in that time it could not have been claimed. Had there been a question about the right to use, year by year, the annual instalment, the time to raise that question was in 1855, after the first class had been taught and the first \$1,000 had been received. Neither the State Treasurer nor the Trustees expressed a doubt about the matter. One of the Trustees was Hon. Samuel E. Sewall, a gentleman of great experience and acknowledged eminence in the legal profession. He helped frame the Resolve in question, and was some time Treasurer of the College. He thought then and says now that in his opinion, the Trustees acted according to the terms and intention of the Resolve, and he says the same of the Resolve of 1855, granting the \$10,000. If lawyers disagree, who are to settle the case? Though the Trustees considered their obligation to furnish instruction for State scholars terminated at the end of the five years, they passed a vote to keep the remaining State Scholarships open till all were taken up. The whole amount now unapplied is only \$750, and a part of this will be needed for students who have not yet completed their course of study.

The grant of \$10,000 in 1855, to aid in providing a building and for other purposes, was used according to the terms of the Resolve. The word "providing," as was intended, left the Trustees free to hire, build, or purchase. Four years passed before the whole grant was received; the College had to hire apartments in the mean time, and still occupies a hired building. An effort was made to purchase of the City of Boston a building, which was occupied some years, but the war interfered with carrying through the undertaking, and at the request of the Trustees the city resumed possession. A full account is given

of this matter in the Report of the College for 1865, already furnished to the Legislature.

About \$9,000 have been expended in "providing" a building. The error in the report of the Committee on Education which the Secretary explained to the Judiciary Committee, and also in the "Circular" from which this Committee make extracts, was this: the Committee on Education say that this grant of \$10,000 "has been used for the general purposes of the institution." That was *not* admitted by the Trustees nor alleged by the Petitioners. The attention of the Chairman of the Committee on Education being called to that point he said he meant to include in the term "general purposes" the money applied on the building account; that is, the grant was applied in providing a building and for other purposes of the institution. Instead of correcting the error the report of the Judiciary Committee rather heightens it by putting the word "all" into the sentence — the money "was all used for the general purposes of the institution."

The Judiciary Committee do not say that the *terms* of the Resolve have not been complied with. The terms are very general, — "this sum to be applied in providing a suitable building, library, apparatus, and other necessary furniture and fixtures, and in otherwise promoting the objects of the Society and its institution."

If the conditional \$10,000 could have been promptly made up, with little expense, more might have been devoted to the building. But it required between two and three years of persevering labor to raise this sum; more than half of which had to be picked up in sums varying from one dollar to twenty dollars, the expenses of the College all this time running on and requiring to be met. Had the Committee better known the difficulties that have attended this enterprise, and the labors that have been performed, they would have been less harsh in their judgment. It would have been as gratifying to the Trus-

tees as to any persons interested in the object, to have devoted the whole \$20,000 to securing a permanent building; but as the Resolve gave them entire liberty they did what they then thought, and now think, was best, under the circumstances, for the interests of the institution. In consequence of this aid from the State, and the management of the Trustees, the College was kept in uninterrupted operation, and \$30,000 in permanent funds were secured to it, while it was using the \$15,000 granted by the State.

The Committee say that "one of the allegations of the petitioners is, that among the uses to which the \$2,500 so obtained from the State was applied, was employing agents to go about the country and solicit subscriptions for a second \$2,500." This allegation is wholly without foundation, as the Committee might have easily learned by inquiring of the Trustees.

In 1859, in accordance with a requirement of the Legislature in cases of this kind, the Treasurer of the College, Hon. Samuel E. Sewall, made a return to the State Auditor of the manner in which the instalment of \$2,500, received the previous year, had been used. The State Auditor received the paper and the State Treasurer paid over the next instalment, thus indicating that everything was right.

In speaking of the meetings for the election of officers, the Committee select the worst specimen and add, "the same defect has existed in nearly, if not every, subsequent election." This is so far from the facts as stated in the "Circular," from which the Committee quote liberally, that at the *five* "subsequent elections" there were a legal number present according to the Committee's own construction of the charter; and never in any instance, except the one cited by the Committee, has a meeting lacked more than one of a full quorum, independently of the members about to retire.

As to the election of officers, the Committee on Education did not feel so clear as to pass upon that point themselves, but

had it referred to the Judiciary Committee. The Trustees may therefore well be excused if they overlooked or mistook the meaning of the charter in that particular. It is obvious that the four members who go out annually are entitled to act, at the annual meeting at which their term of office expires, on all business except that of voting for their successors. No one alleges that they did vote; and the only question is, whether there must be a full quorum present *besides* the outgoing members, in order legally to fill the four vacancies. As if there should be just the quorum, of one hundred, of the House of Representatives present, and a question should arise upon which some of those present were prohibited, under the rule, from voting. Would the House omit to act on the question because there was not a quorum present independently of the non-voting members? It is quite likely that the legal nicety might escape notice. As even the question of the voting of the soldiers in the House, upon the bounty bill, was not raised by the Judiciary Committee or any other members till after considerable voting had taken place upon the subject.

In regard to the income of the Wade Scholarship Fund, a careful reading of the extracts from the "Circular" in the Committee's Report will explain the view the Trustees took of that matter. Four legal gentlemen have been in the Board during the time this income has been thus applied. The will simply says, the income is to be used in aiding certain students. Students have been aided to the amount of more than half of the income, and will be aided to the full amount of the balance. What stands to the credit of the fund is tuition fees paid in advance. The Committee do not seem to be aware that tuition fees, after they are received, in colleges, usually go to pay professors' salaries, and any other expenses; had they been, they would not have spoken of the use of the income for "the general purposes of the institution" as a gross misuse of these tuition fees.

The Committee italicise certain lines from the Secretary's Circular, and try to make them appear as justifying a known misuse of trust funds; but the language will bear no such construction when taken in connection with what they had just quoted from the 'Trustees' Report to the Committee on Education, that "the Trustees, among whom have been prominent legal gentlemen, considering the fact that the college received all suitable applicants as fast as they came, and stood ready to take others, to the full number admissible, as soon as they should apply, felt fully authorized to use the income at once, or keep it on hand, as might best promote the success of the institution."

The Committee ask how soon the money used in advance of the attendance of the scholars is to be replaced. Students are to be received, and the amount of their tuition fees to be charged against the Fund till the account is balanced; which will not require a long time, as the number of students is increasing. Part of the balance is already spoken for.

The Committee say that the Secretary's keeping an accurate account with the Fund and crediting the balance to it "makes the breach of trust more flagrant." Now, it happens that about half of the whole income since the Fund was left was received and disbursed by Lorenzo Burge, Esq., some years Treasurer, without any assistance from the Secretary, and two of the professors, who now petition the Legislature and accuse the Trustees, drew on that Treasurer for their salaries. The Committee, therefore, lay to the Secretary's charge other people's doings.

The Committee think that the statement in the Circular that "it is the duty of the Secretary and general agent, as the only paid officer, to do most of the work, and to have a vigilant oversight of the affairs of the institution," relieves the Trustees of much of the praise or blame in the management of the institution." Does the faithful performance of duty by an overseer

in a cotton manufactory relieve the corporation of responsibility for its management?

The Treasurer of the College asks no release from responsibility on account of any assistance rendered by the Secretary as clerk; nor do the Trustees approve in the least degree of placing upon the Secretary responsibility that belongs to the corporation.

Having thus noticed the main points in the Committee's report it remains to make some general statements.

Though nothing of the kind is intimated in the petitions to the Legislature, it is now evident that the secret object of the petitioners was to break down the Secretary, Dr. Gregory, and get him turned out of the College. In their random attack they stumbled upon the alleged defect in the election of officers. This purpose of the petitioners, though kept out of sight in the petitions, is clearly developed in the Committee's report.*

The subscriber, therefore, wishes to say something of this gentleman and his relation to the College.

Dr. Gregory is a gentleman of liberal education, and culture, a graduate of Yale College, possessing abilities and attainments that would command various positions and a large salary. Though not a member of the medical profession, he has an honorary degree of Doctor of Medicine, and has the same claim to the title of Doctor as any physician or clergyman who has had an honorary doctorate conferred upon him. Though, in answer to an inquiry, the Committee, as the subscriber learns, were informed upon this point, they could not in their report

* This language was not intended to mean that the Committee had any knowledge of the original purpose of the leading petitioners, or had any previous purposes of their own, but simply that the thing which the petitioners desired and purposed — the expulsion of the Secretary — is clearly presented and provided for in the Committee's report. To see an unjust bearing upon the Secretary, it is only necessary to observe that while he is dealt with in the report in a most unsparing manner, a disposition is shown to relieve the other Trustees, some of whom, though for years associated with him, and alike responsible for the transactions complained of, are named in the new bill proposed.

treat the Secretary with respect enough to give him his legal title.

Dr. Gregory is the originator of the College, and has been the chief laborer in bringing it up to its present position. The Committee allude incidentally to his salary. He has labored hard and unceasingly at a salary of six hundred dollars a year, without any increase on account of depreciated currency and high prices of living. Upon this small allowance he has performed the miscellaneous services pertaining to the institution, and has secured for it most of its funds. The Wade Scholarship Fund of \$20,000, with \$10,000 more yet to come from the estate, is almost wholly due to his attention to the subject, and to Col. Wade's high regard for him and for the institution. He was the chief agent also in obtaining the Waterhouse professorship endowment of \$10,000, and almost the sole agent in obtaining the Raymond bequest of \$5,000. He obtained the signatures of a large number of the wealthiest citizens of Boston to petitions to the city government, asking the sale of a building lot to the college at a low rate, and when an offer of a lot worth \$30,000 had been made at fifty per cent. of its value, he raised over \$10,000, which, with Mr. Raymond's bequest, enabled the Trustees to pay for the building lot. In addition to all this, he has, during the whole period of near eighteen years, since the institution started, been a collecting agent for its general expenses.

The adversaries of the college, who are numerous and determined, knowing well that Dr. Gregory is the projector and chief agent in building it up, think, as it would seem, that anything that may be done to injure his reputation and secure his separation from the college will be the most effectual blow that can be struck at the success of the institution. And the Trustees would regard Dr. Gregory's removal from the college one of the greatest misfortunes that could befall it. If, in addition to his removal, he is branded as an unfit man to be connected with

the college, it will forever suffer for its parentage. The college, as the earliest institution of the kind in existence, is an honor to the capital city and the Commonwealth. As years pass away, it will rise higher in the regard of our people; and such unjust and harsh treatment as will be inflicted upon its founder if the Committee's report is sanctioned by the passage of the bill they recommend, will be anything but creditable to those who commit such injustice.

As a member of the State Senate and of the Committee on Education, in 1855 and 1856, when the grant of \$10,000 was made, and the College Charter was conferred, the subscriber had occasion to become acquainted with Dr. Gregory, and learned from him the history of the institution, and from that time to the present he has been a member of the Board of Trustees, and has had a high appreciation of the services of the Secretary.

JOHN BATCHELDER,

President N. E. Female Medical College.

LYNN, May 17th, 1866.

